



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

DECISION
Case #: MPA - 174042

PRELIMINARY RECITALS

On May 2, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Division of Health Care Access and Accountability regarding Medical Assistance. The hearing was held on June 14, 2016, by telephone.

The issue for determination is whether the department erred in its denial of the requested MRA procedure.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Division of Health Care Access and Accountability
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Juneau County.
2. On or around April 6, 2016 the provider filed a request for PA [REDACTED] for an MRA procedure. Her last clinical visit to her provider did not occur within 60 days prior to the request.

3. The request was denied.
4. Petitioner appealed.

DISCUSSION

Medical assistance covers physician-prescribed diagnostic services if they are consistent with good medical practices. Wis. Admin. Code, §§ DHS 107.06(1) and 107.25. The petitioner received a CT scan of his thoracic spine without contrast on September 24, 2014, after injuring his back at work. His provider requested reimbursement for the scan on November 18, 2014. (It did not request the procedure before performing it because the petitioner was not eligible for medical assistance; On October 23, 2014, he was found eligible retroactive to September 1, 2014.) The Office of Inspector General denied the request the day it was submitted after determining that less expensive options should have been tried before a CT scan was performed.

In an effort to ensure that CT, MRI, MRA, and PET scans are consistent with good medical practice, in 2010 the Division of Health Care Access and Accountability, under authority granted by Wis. Admin. Code, § DHS 107.02(3)(a), began requiring prior authorization before paying for them. *MA Update*, #2010-92. There are several reasons for requiring prior authorization, the most important of which when evaluating imaging requests are “to safeguard against unnecessary or inappropriate care and service; to safeguard against excess payments;...and to determine if less expensive alternative care, services or supplies are usable...” Wis. Admin. Code, § DHS 107.02(3)(b)1., 2., and 4.” Imaging guidelines were drafted by MedSolutions, a private radiology benefits manager that claims to use evidence-based clinical guidelines derived from national medical associations.

Whether a service is necessary depends upon, among other things, the medical necessity, appropriateness, and cost of the service; the extent to which less expensive alternative services are available; whether the service is an effective and appropriate use of available services; and the limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines. Wis. Admin. Code, § DHS 107.02(3)(e)1., 2., 3., 6., 7., and 9.

“Medically necessary” means a medical assistance service under ch. HFS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
 2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
 3. Is appropriate with regard to generally accepted standards of medical practice;
 4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
 5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
 6. Is not duplicative with respect to other services being provided to the recipient;
 7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
 8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
 9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, § DHS 101.03(96m).

Among the guidelines for the requested procedure is a requirement that the patient have been seen by her physician for a clinical evaluation within 60 days prior to the request. That is a reasonable requirement. In this case, petitioner concedes that she has not seen her physician in a long time. Indeed, the clinical record suggests her last visit was in 2014.

If petitioner would like the procedure, and would like to have ForwardHealth pay for it, her physician will need to comply with the imaging guideline's requirements.

CONCLUSIONS OF LAW

The denial of the requested procedure was correct.

THEREFORE, it is **ORDERED**

This appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

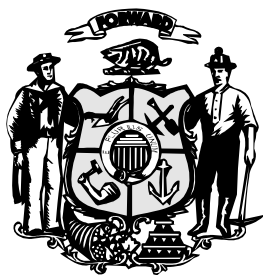
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of July, 2016

\s _____
John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 18, 2016.

Division of Health Care Access and Accountability